

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

14 CV 2634

MARVIN MOORE,

Plaintiff,

**JUDGE CARTER**

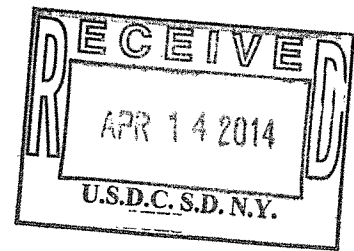
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**COMPLAINT  
AND DEMAND  
FOR A JURY TRIAL**

Index No. 14-CV-\_\_\_\_\_

THE CITY OF NEW YORK, New York City Police  
Department Detective ("Det.") ALBERTO PIZARRO  
(Shield No. 4954) and Det. CARLOS MARCHENA  
(Shield No. 6212), in their individual capacities,

Defendants.



Plaintiff MARVIN MOORE, through his attorney MARK C. TAYLOR of Rankin & Taylor, PLLC as and for his complaint, does hereby state and allege:

**PRELIMINARY STATEMENT**

1. This is a civil rights action brought to vindicate plaintiff's rights under the Fourth and Fourteenth Amendments of the Constitution of the United States, through the Civil Rights Act of 1871, *as amended*, codified as 42 U.S.C. § 1983.
2. Plaintiff MARVIN MOORE's rights were violated when officers of the NEW YORK CITY POLICE DEPARTMENT ("NYPD") unconstitutionally and without any legal basis arrested him and caused him to be prosecuted. By reason of defendants' actions, including their unreasonable and unlawful seizure of his person, he was deprived of his constitutional rights.
3. Plaintiff seeks an award of compensatory and punitive damages and attorneys' fees.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over federal claims pursuant to 28 U.S.C. §§ 1331, 1343(a)(3-4). This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988 for violations of the First, Fourth, and Fourteenth Amendments to the Constitution of the United States.
5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) in that plaintiff's claim arose in the Southern District of New York.
6. An award of costs and attorneys' fees is authorized pursuant to 42 U.S.C. § 1988.

**PARTIES**

7. Plaintiff MARVIN MOORE ("MOORE") was at all times relevant to this action a resident of the County of Bronx in the State of New York.
8. Defendant THE CITY OF NEW YORK ("CITY") is a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department, which acts as its agent in the area of law enforcement and for which it is ultimately responsible. Defendant CITY assumes the risks incidental to the maintenance of a police force and the employment of police officers as said risks attach to the public consumers of the services provided by the NYPD.
9. Defendants NYPD Detective ("Det.") ALBERTO PIZARRO (Shield No. 4954) and NYPD Det. CARLOS MARCHENA (Shield No. 6212) are and were at all times relevant herein, officers, employees and agents of the NYPD.
10. The individual defendants are being sued herein in their individual capacities.
11. At all times relevant herein, the individual defendants were acting under color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of NYPD and otherwise performed and engaged in conduct incidental to the performance of

their lawful functions in the course of their duties. They were acting for and on behalf of the NYPD at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the NYPD and incidental to the lawful pursuit of their duties as officers, employees and agents of the NYPD.

**STATEMENT OF FACTS**

12. Mr. MOORE was falsely arrested by Det. PIZARRO at or about the vicinity of 706 Faile Street, in the County of Bronx and State of New York.
13. Mr. MOORE was walking to visit a friend at approximately 4:00 P.M. on March 30, 2013.
14. MR. MOORE's friend, ANTHONY BROWN happened to pass on a bicycle and the two men spoke briefly.
15. Shortly thereafter, Mr. Moore was then handcuffed and arrested by Det. PIZARRO with the assistance of Det. MARCHENA.
16. Mr. MOORE was taken to the 41<sup>st</sup> precinct where he was detained and strip searched.
17. Mr. MOORE was arraigned in criminal court in Bronx County on March 31, 2013.
18. Mr. MOORE was charged with New York Penal Law § 220.39(1) criminal sale of a controlled substance in the third degree and § 220.03 criminal sale of a controlled substance in the seventh degree.
19. Mr. MOORE was held with bail set at \$2,500.00 cash or \$2,500.00 bond.
20. Mr. MOORE was detained until his next court appearance on April 5, 2013 when he was released on his own recognizance.
21. The criminal charges against Mr. MOORE were dismissed on October 4, 2013 on the motion of the district attorney.

22. As a result of his handcuffing, strip search, arrest, and prosecution, Mr. MOORE experienced pain, suffering, mental anguish, humiliation, and was deprived of his liberty.

**FIRST CLAIM FOR RELIEF  
DEPRIVATION OF RIGHTS  
UNDER THE UNITED STATES CONSTITUTION THROUGH 42 U.S.C. § 1983  
(Against all Defendants)**

23. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

24. Defendants, under color of state law, subjected the plaintiff to the foregoing acts and omissions, thereby depriving plaintiff of her rights, privileges and immunities secured by the Fourth and Fourteenth Amendments to the United States Constitution, including, without limitation, deprivation of the following constitutional rights: (a) freedom from unreasonable seizure of his person; (b) freedom from arrest without probable cause; (c) freedom from false imprisonment; (d) freedom from the lodging of false charges against him by police officers; (e) freedom from having police officers fabricate evidence against him; and (f) freedom from malicious prosecution.

25. Defendants' deprivation of plaintiff's constitutional rights resulted in the injuries and damages set forth above.

**SECOND CLAIM FOR RELIEF  
MONELL CLAIM AGAINST DEFENDANT CITY – 42 U.S.C. § 1983  
(Against the City of New York)**

26. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

27. Det. PIZARRO's and Det. MARCHENA's acts and omissions described above were carried out pursuant to the CITY's overlapping customs and practices which were in existence on

March 30, 2013 and were engaged in with the full knowledge, consent, and cooperation and under the supervisory authority of the CITY and its agency, the NYPD.

28. The acts complained of were carried out by Det. PIZARRO and Det. MARCHENA in their capacities as police officials pursuant to customs, policies, usages, practices, procedures and rules of the CITY and the NYPD, all under the supervision of ranking officers of the NYPD.
29. The aforementioned custom and practice of the CITY and the NYPD include, but are not limited to,
  - a. Arresting persons known to be innocent in order to meet “productivity goals” (i.e., arrest quotas);
  - b. Falsely swearing out criminal complaints, and/or lying and committing perjury during sworn testimony
    - i. in order to protect other officers; and/or
    - ii. in order to meet said productivity goals
30. The existence of aforesaid unconstitutional customs and policies may be inferred from repeated occurrences of similar wrongful conduct, as documented in the following civil rights actions filed against the CITY:
  - a. People v. Alicea, 00012-2013 (Sup. Ct., N.Y. Co.) (NYPD sergeant convicted of 10 felony counts of filing a false document and one misdemeanor count of official misconduct, for falsely swearing he observed two men engaged in a drug transaction, when video evidence clearly showed that the two arrestees had no contact; in response to the indictment, Manhattan District Attorney Cy Vance stated “We rightfully trust our police officers to report their activities truthfully. Those who do not erode the public’s trust in law enforcement... To falsely accuse anyone of a drug sale is not only unacceptable, it is a crime.”);
  - b. People v. Arbeedy, 06314-2008 (Sup. Ct., Kings Co.) (NYPD narcotics detective found guilty of planting drugs on two innocent civilians; former undercover NYPD narcotics officer, Steve Anderson, testifies that fellow narcotics officers routinely maintained a stash of narcotics to plant on innocent civilians in order to help those officers meet their arrest quotas; Mr. Anderson testified concerning the NYPD’s practice of “attaching bodies” to the narcotics to make baseless arrests, stating: “It was something I was seeing a lot of, whether it was from supervisors or undercovers and even investigators. Seeing it so much, it’s almost like you have no emotion with

it. The mentality was that they attach the bodies to it, they're going to be out of jail tomorrow anyway, nothing is going to happen to them anyway. That kind of came on to me and I accepted it — being around that so long, and being an undercover"; the presiding judge, Justice Reichbach, stated: "Having been a judge for 20 years, I thought I was not naïve regarding the realities of narcotics enforcement. But even the court was shocked, not only by the seeming pervasive scope of the misconduct, but even more distressingly by the seeming casualness by which such conduct is employed");

- c. Schoolcraft v. City of New York, 10-CV-6005 (RWS) (S.D.N.Y.) (police officer who exposed a precinct's policies and practices of illegal quotas for the issuance of summonses and arrests, falsifying evidence and suborning perjury alleges he was arrested and committed to a psychiatric facility in retaliation for exposing said policies and practices to the press);
- d. Long v. City of New York, 09-CV-6099 (AKH) (S.D.N.Y.); People v. Pogan, 06416-2008 (Sup. Ct., N.Y. Co.) (officer who purposefully swore out a false complaint and used excessive force is convicted of falsifying police records and was prosecuted for recklessly using physical force; the plaintiff was engaged in expressive conduct, to wit, riding in a Critical Mass bicycle ride, when he was assaulted by the officer);
- e. Lin v. City of New York, 09-CV-1936 (PGG) (S.D.N.Y.) (officers arrest person lawfully photographing an arrest of a bicyclist in Times Square and swear out a criminal complaint whose facts are contradicted by video evidence; officers also arrest a bystander after refusing an unlawful order to produce identification);<sup>1</sup>
- f. Colon v. City of New York, 09-CV-0008 (E.D.N.Y.) In an Order dated November 25, 2009, which denied the CITY's motion to dismiss on Iqbal/Twombly grounds, wherein the police officers at issue were fired and prosecuted for falsifying evidence in a purported buy-and-bust operation, the Honorable District Court Judge Weinstein wrote:

Informal inquiry by the court and among the judges of this court, as well as knowledge of cases in other federal and state courts, has revealed anecdotal evidence of repeated, widespread falsification by arresting police officer of the New York City Police Department. Despite numerous inquiries by commissions and strong reported efforts by the present administration — through selection of candidates for the police force stressing academic and other qualifications, serious training to avoid constitutional violations, and strong disciplinary action within the department — there is some evidence of an attitude among officers that is sufficiently widespread to constitute a custom or policy by the city approving illegal conduct of the kind now charged.

<sup>1</sup> For a description of this case and settlement, see, Anahad O'Connor, *City Pays \$98,000 to Critical Mass Cyclists*, N.Y. Times, March 30, 2010, available at <http://cityroom.blogs.nytimes.com/2010/03/30/city-pays-98000-to-critical-mass-cyclists/>.



- g. Bryant v. City of New York, 22011/2007 (Sup. Ct., Kings Co.) (jury declares that NYPD officers acted pursuant to a City policy regarding the number of arrests officers were expected to make that violated plaintiff's constitutional rights and contributed to her arrest);<sup>2</sup>
- h. Callaghan v. City of New York, 07-CV-9611 (PKC) (S.D.N.Y.) (officers accused of falsifying evidence and retaliatory arrests of bicyclists engaged in expressive conduct, to wit, riding in Critical Mass bicycle rides after the 2004 Republican National Convention);<sup>3</sup>
- i. Williams v. City of New York, 06-CV-6601 (NGG), 2009 U.S. Dist. LEXIS 94418 (E.D.N.Y.) (officers arrest plaintiff during a "vertical patrol" of a public housing project despite evidence that he had a legitimate reason to be on the premises);
- j. Dunlop v. City of New York, 06-CV-0433 (RJS), 2008 U.S. Dist. LEXIS 38250 (S.D.N.Y.) (bystander arrested outside the 2004 Republican National Convention while observing arrests occurring in public; alleges that police destroyed exculpatory evidence by deleting portions of a video which contradict sworn criminal complaint);
- k. Carmody v. City of New York, 05-CV-8084 (HB), 2006 U.S. Dist. LEXIS 83207 (S.D.N.Y.) (police officer alleges that he was terminated for cooperating with another officer's claims of a hostile work environment);
- l. MacNamara v. City of New York, 04-CV-9216 (RJS) (JCF) (S.D.N.Y.) (evidence of perjured sworn statements systematically provided by officers to attempt to cover-up or justify unlawful mass arrests of approximately 1800 people has been and continues to be developed in the consolidated litigation arising out of the 2004 Republican National Convention);
- m. McMillan v. City of New York, 04-CV-3990 (FB) (RML) (E.D.N.Y.) (officers fabricated evidence and used excessive force against an African-American man in Kings County and initiated drug charges against him, despite an absence of any quantum of suspicion);
- n. Avent v. City of New York, 04-CV-2451 (CBA) (CLP) (E.D.N.Y.) (same);
- o. Smith v. City of New York, 04-CV-1045 (RRM) (JMA) (E.D.N.Y.) (same);

<sup>2</sup> For a description of this case and ultimate settlement, see, Oren Yaniv, *Court rules that cops do use quotas, woman injured in 2006 arrest settles for \$75,000*, N.Y. Daily News, Feb. 19, 2011, available at [http://www.nydailynews.com/news/ny\\_crime/2011/02/19/2011-02-19\\_court\\_rules\\_that\\_cops\\_do\\_use\\_quotas\\_woman\\_injured\\_in\\_2006\\_arrest\\_settles\\_for\\_750.html](http://www.nydailynews.com/news/ny_crime/2011/02/19/2011-02-19_court_rules_that_cops_do_use_quotas_woman_injured_in_2006_arrest_settles_for_750.html).

<sup>3</sup> For a description of this case and the nearly \$1 million settlement, see, Cate Doty, *Bike Riders in New York Win Settlement*, N.Y. Times, October 18, 2010, available at [http://www.nytimes.com/2010/10/19/nyregion/19critical.html?\\_r=1](http://www.nytimes.com/2010/10/19/nyregion/19critical.html?_r=1).

- p. Powers v. City of New York, 04-CV-2246 (NGG), 2007 U.S. Dist. LEXIS 27704 (E.D.N.Y.) (police officer alleges unlawful retaliation by other police officers after testifying about corruption within the NYPD);
- q. Kunstler v. City of New York, 04-CV-1145 (RWS) (MHD) (S.D.N.Y.) (group of peaceful anti-war protestors arrested without probable cause and questioned by NYPD about their political beliefs; photographic and video surveillance of the protestors taken due to plaintiffs' political beliefs);
- r. Dotson v. City of New York, 03-CV-2136 (RMB) (S.D.N.Y.) (officers arrest and use excessive force against a candidate for City Council for trespassing in his own residential building);
- s. Nonnemann v. City of New York, 02-CV-10131 (JSR) (AJP), 2004 U.S. Dist. LEXIS 8966 (S.D.N.Y.) (former NYPD lieutenant alleging retaliatory demotion and early retirement after reporting a fellow officer to IAB and CCRB for the officer's suspicionless, racially-motivated stop-and-frisk of a group of Hispanic youth);
- t. Richardson v. City of New York, 02-CV-3651 (JG) (CLP) (E.D.N.Y.) (officers fabricated evidence, including knowingly false sworn complaints, and used excessive force against an African-American man in Kings County and initiated drug charges against him, despite an absence of any quantum of suspicion);
- u. Barry v. New York City Police Department, 01-CV-10627 \*2 (CBM), 2004 U.S. LEXIS 5951 (S.D.N.Y.) (triable issue of fact where NYPD sergeant alleged retaliatory demotion and disciplinary charges in response to sergeant's allegations of corruption within her unit and alleged that the NYPD had an "unwritten but pervasive custom of punishing officers who speak out about police misconduct and encouraging, if not facilitating, silence among officers");
- v. Taylor v. City of New York, 01-CV-5750 (ILG) (MDG) (E.D.N.Y.) (same as Richardson, except without the excessive force; judge at the criminal trial acquitting Mr. Taylor noted, on the record, that he had "significant doubt" about the truthfulness of the officers who testified);
- w. Walton v. Safir, 99-CV-4430 (AKH), 122 F.Supp.2d 466 (S.D.N.Y. 2000) (factual findings after trial that a 12-year veteran of NYPD was terminated in retaliation for criticizing the racially-motivated policies of the NYPD's Street Crime Unit and for alleging that such policies led to the NYPD shooting death of Amadou Diallo);
- x. Carin v. City of New York, 95-CV-3472 (JFK), 1998 U.S. Dist. LEXIS 1533 (S.D.N.Y.) (bystander arrested while observing the arrest of a street vendor in a public place);
- y. White-Ruiz v. City of New York, 93-CV-7233 (DLC) (MHD), 983 F.Supp. 365, 380 (S.D.N.Y. 1997) (holding that the NYPD had an "unwritten policy or practice of encouraging or at least tolerating a pattern of harassment directed at officers who exposed instances of police corruption");



- z. Ariza v. City of New York, 93-CV-5287 (CPS), 1996 U.S. Dist. LEXIS 20250 at\*14 (E.D.N.Y.) (police officer alleges retaliatory duty assignments and harassment in response to his allegations about a racially-discriminatory workplace; on motion for summary judgment, the Court held that the police officer had established proof of both a widespread usage of a policy to retaliate against police officers who expose police misconduct and a failure to train in the police department);
  - aa. Sorluccho v. New York City Police Department, 89-CV-7225 (CCH), 888 F.2d 4 (2d Cir. 1989) (former officer entitled to trial on issue of whether she was re-assigned and then terminated after reporting that a fellow officer had raped her); and
  - bb. Kaufman v. City of New York, 87-CV-4492 (RO), 1992 U.S. Dist. LEXIS 14049 (S.D.N.Y.) (bystander arrested for observing an unlawful arrest in public, requesting the officer's badge number, and telling the officer that he planned to file a report about the arrest).
31. Furthermore, the existence of the aforesaid unconstitutional customs and policies, specifically with regard to "productivity goals," may be further inferred from the following:

- a. Former Deputy Commissioner Paul J. Browne repeatedly admitted that NYPD commanders are permitted to set "productivity goals."<sup>4</sup>
- b. An NYPD transit lieutenant was captured on tape telling officers to make more arrests to meet a captain's order and do more work if they want overtime assignments. "All they care about is ... summonses and arrests and 250s," Lt. Janice Williams said, using police jargon for the NYPD Stop, Question and Frisk reports. She added, "The bottom line is everybody's individual activity is being looked at." Later in the recording - made during a roll call in 2010 at Transit District 34 in Coney Island - she said only officers with "good productivity" will get the opportunity to work overtime. She also said Capt. James Sheerin wanted every officer to make at least one arrest per month - up from the previous order of one every three months - because crime had spiked and arrest totals were lower than other transit districts. "He wants everyone to get in the mindset that there's no more collar a quarter," Williams said.<sup>5</sup>
- c. NYPD Officer Adil Polanco has asserted that his command, the 41<sup>st</sup> Precinct, regularly requires officer to make at least "one arrest and twenty summonses" per

<sup>4</sup> Jim Hoffer, *NYPD Officer claims pressure to make arrests*, WABC-TV Eyewitness News, March 2, 2010, available at <http://abclocal.go.com/wabc/story?section=news/investigators&id=7305356> ("Police Officers like others who receive compensation are provided productivity goals and they are expected to work").

<sup>5</sup> Rocco Parascandola, *NYPD Lt. Janice Williams captured on tape pushing for more busts, but brass says there's no quotas*, N.Y. Daily News, March 3, 2011, available at [http://www.nydailynews.com/ny\\_local/2011/03/03/2011-03-03\\_nypd\\_lt\\_janice\\_williams\\_captured\\_on\\_tape\\_pushing\\_for\\_more\\_busts.html](http://www.nydailynews.com/ny_local/2011/03/03/2011-03-03_nypd_lt_janice_williams_captured_on_tape_pushing_for_more_busts.html).

month. P.O. Polanco's allegations were confirmed by an audiotape obtained by the media. The contents of the tape reveal that these quotas are enforced through coercion and threats of job loss, to wit, a patrol supervisor at the 41<sup>st</sup> Precinct is overheard saying: "If you think one and 20 is breaking your balls, guess what you'll be doing. You're gong (sic) to be doing a lot more, a lot more than what they're saying." The tape also reveals that another patrol supervisor chimed in and told the officers: "Next week, 25 and one, 35 and one, and until you decide to quit this job and go to work at a Pizza Hut, this is what you're going to be doing till (sic) then."<sup>6</sup>

- d. The New York Daily News obtained and published two (2) internal memos which were posted inside the roll-call room at the NYPD's 77<sup>th</sup> Precinct. The memos specifically instructed officers about "number of tickets to give drivers for cell phone, seat belt, double-parking, bus stop, tinted windows and truck route violations" they were expected to issue. The memos remained posted for several weeks inside the roll-call room until the media began inquiring.<sup>7</sup>
- e. Responding to a query from a civilian who was cited on consecutive days in November of 2009 for allegedly occupying more than one seat on the New York City subway, the officer responded: "Recently we've been told to write tickets instead of give warnings for this type of thing." The officer explained that they needed to meet quotas.<sup>8</sup>
- f. In December of 2010 and in response to the pressure from their supervisors to write baseless summonses pursuant to the policy and practice of "quotas," police officers at the 79<sup>th</sup> Precinct considered organizing a so-called "daylong summons boycott." As one (1) officer at the precinct explained, "Nobody feels this is right, asking us to write summonses just to meet a quota."<sup>9</sup>
- g. In response to the planned summons-boycott at the 79<sup>th</sup> Precinct, on December 13, 2010, Deputy Chief Michael Marino marched into the precinct at roll call with a deputy inspector and read officers the riot act. "Just try it," a police source quoted Marino as saying. "I'll come down here and make sure you write them." Marino also

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<sup>6</sup> *Id.*

<sup>7</sup> James Fanelli, Cops at Brooklyn's crime-ridden 77<sup>th</sup> Precinct told to meet quotas for moving violations, memos say, N.Y. Daily News, Nov. 8, 2010, *available at* [http://www.nydailynews.com/ny\\_local/2010/11/08/2010-11-08\\_cops\\_told\\_to\\_meet\\_quotas.html](http://www.nydailynews.com/ny_local/2010/11/08/2010-11-08_cops_told_to_meet_quotas.html).

<sup>8</sup> Tom Namako and Kirsten Fleming, *Nighttime Riders in Big Sit Fit*, The New York Post, December 26, 2009, *available at* [http://www.nypost.com/p/news/local/space\\_hogs\\_lapped\\_on\\_empty\\_subways\\_m7iRA9b4E9aYPuGvy5OO](http://www.nypost.com/p/news/local/space_hogs_lapped_on_empty_subways_m7iRA9b4E9aYPuGvy5OO).

<sup>9</sup> Rocco Parascandola, *Irate cops at 79<sup>th</sup> Precinct in Bedford-Stuyvesant threaten boycott over quotas*, N.Y. Daily News, Dec. 12, 2010, *available at* [http://www.nydailynews.com/news/ny\\_crime/2010/12/12/2010-12-12\\_bklyn\\_cops\\_threaten\\_tixwriting\\_boycott.html#ixzz180Q0JW7t](http://www.nydailynews.com/news/ny_crime/2010/12/12/2010-12-12_bklyn_cops_threaten_tixwriting_boycott.html#ixzz180Q0JW7t).

vowed to transfer people, like he did when he was the commanding officer of the 75<sup>th</sup> Precinct in East New York.<sup>10</sup>

- h. Capt. Alex Perez, the second in command at the NYPD's 81<sup>st</sup> Precinct, testified in a civil matter before a Brooklyn Supreme Court jury that officers are likely to get poor performance ratings if they have few arrests, conceding that that arrest numbers are a factor in evaluating an officer's performance.<sup>11</sup> Ultimately, the jury in that case ruled that the police had a policy "regarding the number of arrests officers were to make that violated plaintiff's constitutional rights and contributed to her arrest."<sup>12</sup>
- i. The New York City Office of Collective Bargaining concluded that officers in Brooklyn's 75<sup>th</sup> Precinct were required to issue four (4) parking tickets, three (3) moving violation citations, three (3) "quality-of-life" summonses, make one (1) arrest and two (2) stop-and-frisks each month. Arbitrator Bonnie Siber Weinstock ruled that the NYPD maintained an illegal "summons quota for traffic violations in the precinct and by penalizing officers for failing to meet the stated number of traffic citations." She ordered the city to cease and desist from the practice.<sup>13</sup>
- j. Kieran Creighton, commander of the NYPD Housing Police Service Area 8 in the northern Bronx, was investigated for ordering officers to make a certain number of arrests each month. According to The New York Daily News:

The incident allegedly occurred in the spring when Creighton ordered at least eight members of an undercover anti-crime team to a meeting in Pelham Bay Park to berate them about an alleged lack of arrests, sources said.

"You can't make the nine collars a month, then we'll all have to go our separate ways," Creighton told the officers, according to an internal complaint obtained by The News.

<sup>10</sup> Rocco Parascandola, *Deputy Chief Michael Marino threatens cops at the 79<sup>th</sup> Precinct who want to go on summons strike*, N.Y. Daily News, Dec. 15, 2010, available at [http://www.nydailynews.com/ny\\_local/2010/12/15/2010-12-15\\_summons\\_strike\\_i\\_dare\\_ya\\_deputy.html](http://www.nydailynews.com/ny_local/2010/12/15/2010-12-15_summons_strike_i_dare_ya_deputy.html).

<sup>11</sup> William J. Gorta, *Brooklyn Mom's Suit Targets NYPD Arrest Quotas*, N.Y. Post, Feb. 15, 2011, at 6, available on Westlaw at 2011 WLNR 2986205; see also Oren Yaniv, *Capt. Links Arrests, Evaluation of Cops*, N.Y. Daily News, Feb. 15, 2011, at 20, also available on Westlaw at 2011 WLNR 2986205.

<sup>12</sup> Oren Yaniv, *Court rules that cops do use quotas, woman injured in 2006 arrest settles for \$75,000*, N.Y. Daily News, Feb. 19, 2011, available at [http://www.nydailynews.com/news/ny\\_crime/2011/02/19/2011-02-19\\_court\\_rules\\_that\\_cops\\_do\\_use\\_quotas\\_woman\\_injured\\_in\\_2006\\_arrest\\_settles\\_for\\_750.html](http://www.nydailynews.com/news/ny_crime/2011/02/19/2011-02-19_court_rules_that_cops_do_use_quotas_woman_injured_in_2006_arrest_settles_for_750.html).

<sup>13</sup> *New York City Ticket Quota Confirmed, Denied*, The Newspaper.Com, January 21, 2006, available at <http://www.thenewspaper.com/news/09/914.asp>; see also, Kirsten Cole, *NYPD's Bogus Little Secret: Parking Ticket Quotas -- Agents Often Caught Citing You For Violations You Didn't Commit*; WCBSTV.com, August 14, 2007, available at <http://wcbstv.com/topstories/parking.ticket.blitz.2.246533.html> (referring to the arbitrator's report).

Anything less than nine arrests would be a "personal slap in the face," Creighton allegedly said.

Creighton then told the cops to "finagle" the times of arrests so any overtime was paid for by a federally funded anti-drug program, the complaint alleges.

Unbeknownst to Creighton, one officer had his NYPD radio switched on - so the captain's 10 to 12 minute speech was broadcast to Bronx precincts in Morrisania and Schuylerville and taped by a 911 dispatcher.<sup>14</sup>

32. The existence of the aforesaid unconstitutional customs and practices, **specifically with regard to the practice or custom of officers lying under oath, falsely swearing out criminal complaints, or otherwise falsifying or fabricating evidence**, are further evidenced, inter alia, by the following:

- a. The Mollen Commission concluded that police perjury and falsification of official records is probably the most common form of police corruption facing the criminal justice system. It concluded:

Regardless of the motives behind police falsifications, what is particularly troublesome about this practice is that it is widely tolerated by corrupt and honest officers alike, as well as their supervisors. Corrupt and honest officers told us that their supervisors knew or should have known about falsified versions of searches and arrests and never questioned them.<sup>15</sup>

[...]

What breeds this tolerance is a deep-rooted perception among many officers of all ranks within the Department that nothing is really wrong with compromising facts to fight crime in the real world. Simply put, despite the devastating consequences of police falsifications, there is a persistent belief among many officers that it is necessary and justifies, even if unlawful. As one dedicated officer put it, police officers often view falsification as, to use his words, "doing God's work" – doing whatever it takes to get a suspected criminal off the streets. This attitude is so entrenched, especially in high-crime precincts, that when

<sup>14</sup> Allison Gendar, *NYPD captain allegedly caught in arrest quota fixing*, The New York Daily News, November 14, 2007, available at [http://www.nydailynews.com/news/ny\\_crime/2007/11/14/2007-11-14\\_nypd\\_captain\\_allegedly\\_caught\\_in\\_arrest\\_-1.html#ixzz0bfPBhRTz](http://www.nydailynews.com/news/ny_crime/2007/11/14/2007-11-14_nypd_captain_allegedly_caught_in_arrest_-1.html#ixzz0bfPBhRTz).

<sup>15</sup> Mollen Commission Report, p. 36.

investigators confronted one recently arrested officer with evidence of perjury, he asked in disbelief, "What's wrong with that? They're guilty."<sup>16</sup>

- b. In June of 2011, in the case in New York County Supreme Court entitled People v. William Eiseman (Ind. No. 2999-2010), NYPD Sergeant William Eiseman pled guilty to perjury and falsifying police records, "admit[ing] to faking a marijuana case against one man and cocaine-related charges against another – and training young [officers] to falsify paperwork to sidestep legal safeguards." Supreme Court Justice Juan Merchan commented that Sgt. Eiseman's admissions "paint a picture of a police officer who has challenged and undermined the integrity of the entire system we have here."<sup>17</sup>
- c. In late 2009, a former NYPD officer in the Bronx, Pedro Corniel, was charged with perjury for claiming to have caught a burglar "red-handed," when, in fact, two other officers had made the arrest and handed the arrest off to Mr. Corniel. The suspect was released.<sup>18</sup> Moreover,

Prosecutors and NYPD Internal Affairs probers have identified as many as two dozen cases in the past year in which cops allegedly made false statements involving routine arrests when the truth would have served them just as well.

That's a significant increase over previous years, sources said. "In the past, we'd find this happening once or twice a year, and now there are a bunch of them," said one law-enforcement official.

What has the authorities particularly troubled is that officers historically have lied to cover up more serious corruption, such as the cadre of Brooklyn narcotics cops caught last year stealing drugs from dealers and masking their thievery by filing false reports about what they had seized.

But internal probers are now finding that officers appear willing to take insidious shortcuts and lie on arrest reports when they are processing even routine collars, such as grand larceny, burglaries and robberies, sources told The Post.

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<sup>16</sup> Mollen Commission Report, pp. 40-41.

<sup>17</sup> Melissa Grace, *NYPD Sgt. William Eiseman pleads guilty to lying under oath in plea deal*, N.Y. Daily News, June 27, 2011, available at [http://www.nydailynews.com/news/ny\\_crime/2011/06/27/2011-06-27\\_nypd\\_sgt\\_william\\_eiseman\\_pleads\\_guilty\\_to\\_lying\\_under\\_oath\\_in\\_plea\\_deal.html](http://www.nydailynews.com/news/ny_crime/2011/06/27/2011-06-27_nypd_sgt_william_eiseman_pleads_guilty_to_lying_under_oath_in_plea_deal.html).

<sup>18</sup> Murray Weiss, *NYPD in a Liar Storm*, N.Y. Post, Oct. 26, 2009, available at [http://www.nypost.com/p/news/local/nypd\\_in\\_liar\\_storm\\_qazMBEm3UNJVogv4Ndeqcl](http://www.nypost.com/p/news/local/nypd_in_liar_storm_qazMBEm3UNJVogv4Ndeqcl).



Their reasons could range from trying to cut down on paperwork to being lazy when filling out arrest and incident reports.<sup>19</sup>

- d. In 2007, former NYPD Officer Dennis Kim admitted to accepting money and sexual favors from the proprietor of a brothel in Queens County in exchange for protecting that brothel. Mr. Kim was convicted of those offenses. The 109<sup>th</sup> Precinct of the NYPD, which used to be Mr. Kim's command, is also under investigation by the United States Attorney's Office for "plant[ing] drugs on suspects and steal[ing] cash during gambling raids." The 109<sup>th</sup> Precinct is believed to be involved in a practice known as "flaking" wherein police officers plant drugs on suspects in order to bring legitimacy to an arrest. According to Assistant United States Attorney Monica Ryan, members of the 109<sup>th</sup> Precinct "maintained a small stash of drugs in an Altoids tin for this purpose."<sup>20</sup>
- e. In December of 2009, two (2) officers from the 81<sup>st</sup> Precinct in Brooklyn arrested and falsely swore out charges against an undercover officer from the Internal Affairs Bureau. As explained in an article in the New York Post:

The officers were snared in a sting by Internal Affairs in December when they were told to keep an eye out for people selling untaxed cigarettes in their precinct.

Some time later, they saw a man hanging out on a corner in the neighborhood and found that he was carrying packs of knock-off smokes.

[Sgt. Raymond] Stukes, 45, and [Officer Hector] Tirado, 30, cuffed him, but then claimed that they had seen him selling the bogus butts to two people, according to sources.

Little did the hapless cops know that the man in their custody was an undercover corruption investigator and that the whole incident was caught on video.

To complete the ruse, the undercover cop was processed at the station house so as to not tip off Stukes and Tirado about the sting...

[P]olice sources said [this action] stem[s] from precinct commanders caving to the pressure of top brass to make themselves look better.

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<sup>19</sup>

*Id.*

<sup>20</sup>

John Marzulli, *Claims of Corruption at Queens Precinct Put Crooked Cop's Sentencing on Hold*, New York Daily News, June 20, 2008, available at [http://www.nydailynews.com/news/ny\\_crime/2008/06/20/2008-06-20\\_claims\\_of\\_corruption\\_at\\_queens\\_precinct.html](http://www.nydailynews.com/news/ny_crime/2008/06/20/2008-06-20_claims_of_corruption_at_queens_precinct.html).



“There’s pressure on the cops from the bosses and they’re getting pressured from headquarters,” a police source told The Post.<sup>21</sup>

The officers were indicted for felony perjury, filing a false report and filing a false instrument.<sup>22</sup>

f. In early 2010, the CITY settled a civil rights lawsuit wherein one Officer Sean Spencer<sup>23</sup> falsely arrested and accused a 41-year old grandmother of prostitution, promising to pay the woman \$35,000. In court documents, Caroline Chen, the attorney representing the CITY in the case, admitted: “Officer Spencer falsely reported to the assistant district attorney that he saw [the plaintiff] beckon to three male passersby and that he was aware that plaintiff was previously arrested for [prostitution] when the plaintiff had never been arrested for this offense.”<sup>24</sup>

g. Separate grand jury investigations into drug-related police corruption in the Bronx and Manhattan revealed that more than a dozen officers had been breaking into drug dealers’ apartments, stealing and then selling their drugs and perjuring themselves by filing false arrest reports. District attorneys and their assistants interviewed during a four-month investigation by New York Newsday said they believe those two grand jury investigations - in the 46<sup>th</sup> Precinct in the University Heights section of the Bronx and the 34<sup>th</sup> Precinct - are not isolated instances. They say the investigations reflect a larger, broader problem within the NYPD that its top officials seem unable or unwilling to acknowledge.<sup>25</sup>

33. All of the foregoing acts by defendants deprived the plaintiff of federally protected rights, including, but limited to, the constitutional rights enumerated in paragraph 24.

34. Defendant CITY knew or should have known that the acts alleged herein would deprive the plaintiff of his rights, in violation of the Fourth and Fourteenth Amendments to the United States Constitution.

<sup>21</sup> Larry Celona and Tim Perone, *Cops Sting Cops*, N.Y. Post, July 30, 2010, available at [http://www.nypost.com/p/news/local/brooklyn/cops\\_sting\\_cops\\_lyltuTeLdhKWtruJZYsdL](http://www.nypost.com/p/news/local/brooklyn/cops_sting_cops_lyltuTeLdhKWtruJZYsdL).

<sup>22</sup> John Marzulli, *Brooklyn cops charged with barding into sting operation, arresting a fellow officer on bogus charges*, N.Y. Daily News, July 30, 2010, available at [http://www.nydailynews.com/ny\\_local/2010/07/30/2010-07-30\\_brooklyn\\_cops\\_charged\\_with\\_barging\\_into\\_sting\\_operation\\_arresting\\_a\\_fellow\\_offic.html](http://www.nydailynews.com/ny_local/2010/07/30/2010-07-30_brooklyn_cops_charged_with_barging_into_sting_operation_arresting_a_fellow_offic.html).

<sup>23</sup> In sum, the CITY has paid out \$80,000 to settle four (4) federal lawsuits against Officer Sean Spencer. John Marzulli, *City shells out \$35G to grandmother, Monica Gonzalez, busted as hooker*, New York Daily News, January 7, 2010, available at [http://www.nydailynews.com/ny\\_local/2010/01/08/2010-01-08\\_city\\_shells\\_out\\_35g\\_to\\_granny\\_busted\\_as\\_hooker.html](http://www.nydailynews.com/ny_local/2010/01/08/2010-01-08_city_shells_out_35g_to_granny_busted_as_hooker.html).

<sup>24</sup> *Id.*

<sup>25</sup> David Kocieniewski and Leonard Levitt, *When the Finest Go Bad: DAs, others say department overlooks corruption*, New York Newsday, November 18, 1991, at 6.

35. Defendant CITY is directly liable and responsible for the acts of the individual police defendants because it repeatedly and knowingly failed to properly supervise, train, instruct, and discipline them and because it repeatedly and knowingly failed to enforce the rules and regulation of the CITY and NYPD, and to require compliance with the Constitution and laws of the United States.
36. Despite knowledge of such unlawful de facto policies, practices and/or customs, these supervisory and policy-making officers and officials of the NYPD and the CITY, including then Commissioner Raymond Kelly, did not taken steps to terminate these policies, practices and/or customs, did not discipline individuals who engage in such polices, practices and/or customs, or otherwise properly train police officers with regard to the constitutional and statutory limits on the exercise of their authority, and instead sanctioned and ratified these policies, practices and/or customs through their active encouragement of, deliberate indifference to and/or reckless disregard of the effect of said policies, practices and/or customs upon the constitutional rights of persons in the City of New York.
37. The aforementioned CITY policies, practices and/or customs of failing to supervise, train, instruct and discipline police officers and encouraging their misconduct are evidenced by the police misconduct detailed herein. Specifically, pursuant to the aforementioned CITY policies, practices and/or customs, the individual defendants felt empowered to arrest plaintiff without probable cause and then fabricate and swear to a false story to cover up their blatant violations of plaintiff's constitutional rights. Pursuant to the aforementioned CITY policies, practices and/or customs, defendants failed to intervene in or report other defendants' violation of plaintiff's rights or subsequent perjury.

38. Plaintiff's injuries were a direct and proximate result of the defendant CITY and the NYPD's wrongful de facto policies and/or well-settled and widespread customs and practices and of the knowing and repeated failure of the defendant CITY and the NYPD to properly supervise, train and discipline their police officers.
39. The actions of the individual police defendants resulted from and were taken pursuant to the following de facto policies and/or well-settled and widespread customs and practices of the CITY, which implemented by agents or employees of the NYPD, of employing wholly unprovoked and excessive force.
40. Defendants, collectively and individually, while acting under color of state law, acquiesced in a pattern of unconstitutional conduct by subordinate police officers and were directly responsible for the violation of the plaintiff's constitutional rights.

### **JURY DEMAND**

41. Plaintiff demands a trial by jury in this action on each and every one of his damage claims.

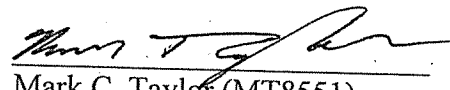
WHEREFORE, plaintiff demands judgment against the defendants individually and jointly and prays for relief as follows:

- a. That he be compensated for violation of his constitutional rights, pain, suffering, mental anguish, and humiliation; and
- b. That he be awarded punitive damages against the individual defendants; and
- c. That he be compensated for attorneys' fees and the costs and disbursements of this action; and
- d. For such other further and different relief as to the Court may seem just and proper.

Dated: New York, New York  
April 14, 2014

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "Mark C. Taylor", written over a horizontal line.

Mark C. Taylor (MT8551)

Rankin & Taylor, PLLC

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